

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

MAR 29 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

WILLIAM SHARKOZY,)	2 CA-CV 2009-0098
)	DEPARTMENT A
Plaintiff/Appellant,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 28, Rules of Civil
CAROL SUE WALKER,)	Appellate Procedure
)	
Defendant/Appellee.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF GILA COUNTY

Cause No. CV2008-169

Honorable Robert Duber II, Judge

AFFIRMED

William Sharkozy

Payson
In Propria Persona

Carol Sue Walker

Gilbert
In Propria Persona

K E L L Y, Judge.

¶1 Appellant William Sharkozy appeals from the trial court's order dismissing his complaint against his sister, Carol Walker. In several poorly developed arguments, he maintains the trial court erred in ruling against him. Finding no error, we affirm.

Background

¶2 Sharkozy brought the instant action in May 2008, alleging Walker had “committ[ed] a series of Organized Crimes, including Fraud Activity and purposely Tricking a Life Insurance/Annuity Company into releasing the amount of \$91,966.35 Annuity Funds that went into a Fraudulent Home . . . in Cottonwood Arizona that was Completely Dishonest.”

¶3 At a bench trial on the matter, Sharkozy acknowledged the annuity “was not his property, but that of his deceased mother.” Finding that Sharkozy therefore lacked standing, the trial court dismissed the case. Noting that Sharkozy had brought five unsuccessful actions against Walker, the court also enjoined Sharkozy from “filing litigation naming [Walker] in any court in the State of Arizona unless he has permission from a Superior Court judge.” Sharkozy appeals the trial court’s ruling.

Discussion

¶4 Sharkozy has not properly developed his arguments on appeal, nor has he cited the record or any relevant authority as required by Rule 13(a)(6), Ariz. R. Civ. App. P. He has therefore waived his arguments and we could dispose of this matter solely on that basis. *See Lohmeier v. Hammer*, 214 Ariz. 57, n.5, 148 P.3d 101, 108 n.5 (App. 2006). Additionally, although the exhibits introduced at trial have been provided to this court, the transcripts of the proceedings have not been made part of the record on appeal. As the appellant, Sharkozy was obligated to “mak[e] certain the record on appeal contains all transcripts or other documents necessary for us to consider the issues raised.” *Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (App. 1995); *see also* Ariz. R. Civ.

App. P. 11(b). In the absence of the transcripts, we will presume they support the trial court's factual findings and rulings, *see Kohler v. Kohler*, 211 Ariz. 106, n.1, 118 P.3d 621, 623 n.1 (App. 2005), and address Sharkozy's claims accordingly.

¶5 As noted above, the trial court dismissed Sharkozy's complaint after concluding he lacked standing to contest his sister's alleged actions relating to his mother's annuity. Standing is generally a question of law subject to de novo review. *Robert Schalkenbach Found. v. Lincoln Found., Inc.*, 208 Ariz. 176, ¶ 15, 91 P.3d 1019, 1023 (App. 2004). In this case, however, Sharkozy does not dispute the trial court's conclusion that he lacked standing. And, in the absence of the transcript, we must presume that the evidence presented to the trial court supported its conclusion. *Kohler*, 211 Ariz. 106, n.1, 118 P.3d at 623 n.1.

¶6 Sharkozy does, however, argue the trial court erred in precluding certain evidence he offered below. "A trial court has broad discretion in the admission of evidence, and we will not disturb its decision absent an abuse of that discretion and resulting prejudice." *Crackel v. Allstate Ins. Co.*, 208 Ariz. 252, ¶ 59, 92 P.3d 882, 898 (App. 2004). Here, Sharkozy argues the evidence he sought to introduce would "prove . . . Walker [wa]s responsible for unlawfully transferring [money from his] mother's life savings into fraudulent . . . property." In the absence of a transcript, we are unable to determine what, if any, argument was made to the trial court in support of admitting the evidence. We presume the missing transcripts would support the court's decision. *See Kohler*, 211 Ariz. 106, n.1, 118 P.3d at 623 n.1. And, in any event, because Sharkozy argues only that the evidence would show his sister had wrongfully transferred certain

funds and does not assert the evidence would prove he had standing to assert such a claim, we cannot say the court abused its discretion in excluding the evidence.

¶7 Sharkozy also maintains the trial court erred in denying his request to summon his brother as a witness. Before trial, Sharkozy moved to “include” his brother. The court ruled that, if the motion was intended to join his brother as a party, it was untimely, and instructed Sharkozy that, if he wished to call his brother as a witness, he should “follow the rules for the issuance of subpoenas.” Thus, the court did not, as Sharkozy argues on appeal, deny a request to summon his brother. Instead, it appears Sharkozy failed to comply with the court’s direction to properly obtain a subpoena for his brother. *See* Ariz. R. Civ. P. 45.

¶8 Next, to the extent Sharkozy argues the trial court was biased against him and denied him “proper justice” in this case, we disagree. Sharkozy argues the court did not treat him “with the same amount of respect” as Walker and its rulings against him demonstrate its bias. This unsupported assertion is insufficient to overcome our presumption that trial judges are free from bias. *See State v. Smith*, 203 Ariz. 75, ¶ 13, 50 P.3d 825, 829 (2002) (judges presumed free from bias); *Smith v. Smith*, 115 Ariz. 299, 303, 564 P.2d 1266, 1270 (App. 1977) (“It is generally conceded that the bias and prejudice necessary to disqualify a judge must arise from an extra-judicial source and not from what the judge has done in his participation in the case.”).

¶9 Finally, Sharkozy maintains the trial court could not bar him from filing further actions against Walker, regardless of his having brought numerous unsuccessful actions against her in the past. But, he has cited no legal authority to suggest the court’s

action exceeded the general power and authority granted to the superior courts. *See* A.R.S. §§ 12-122, 12-123.

Disposition

¶10 The judgment of the trial court is affirmed.

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge

CONCURRING:

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Presiding Judge